

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department on its own motion into the appropriate regulatory plan to succeed price cap regulation for Verizon New England, Inc. d/b/a Verizon Massachusetts' retail intrastate telecommunications services in the Commonwealth of Massachusetts

DTE 01-31

**MOTION OF AT&T COMMUNICATIONS OF NEW ENGLAND, INC. FOR
LEAVE TO SEEK RECONSIDERATION OR CLARIFICATION OF THE
SCHEDULE OF THIS PROCEEDING AT THE TIME THAT AT&T FILES ITS
TESTIMONY ON AUGUST 24, 2001**

On February 27, 2001, the Department issued its *Vote And Order To Open*

Investigation ("Vote"), in which it directed Verizon to file a proposal that includes:

- 1) a component for regulating or deregulating retail prices;
- 2) a plan for regulating service quality; and
- 3) a plan for intrastate access charge reform similar to that approved by the Federal Communications Commission ("FCC") for interstate charges.

Vote at 2. Verizon filed a plan with supporting testimony on April 12, 2001.

After seeking comments from the parties, the Department, on June 21, 2001, issued its *Interlocutory Order On Scope* ("Scheduling Order"). In its *Scheduling Order*, the Department noted that the parties had proposed a scope

that included eight broad categories: (1) a full rate case or an extensive review of Verizon's past and projected financial information; (2) establishment of imputation-based price floors; (3) coordination of the relationship between wholesale and retail rates and the respective ongoing Department proceedings; (4) development of a universal service funding mechanism; (5) access pricing reform; (6) expansion of competitive safeguards; (7) review of alternative proposals to Verizon's plan; and (8) an investigation into the state of competition in Massachusetts. As discussed more fully below, because we decide to bifurcate this

proceeding into consecutive phases, we do not specify at this time which of the above categories, other than an investigation into competitive conditions, are properly within the scope of this proceeding.

Scheduling Order at 16-17. The Department, however, found that the issue of competition needed to be addressed first and bifurcated this proceeding accordingly. *Id.* at 21. The Department stated that “[i]n the first phase of this proceeding, we will undertake an investigation into the levels of competition, the specific standard of review, and the necessary Department findings regarding sufficient competition.” *Id.*

At the July 9, 2001 procedural conference, the Department and the parties discussed various scheduling options. The issue of access reform was the subject of some of those discussions.¹ Access reform was ordered by the Department to be part of this case. As a result, the issue regarding access reform is not of an issue of scope, but rather an issue of scheduling. As part of that discussion, counsel for AT&T suggested that the issue of access reform be placed on a separate and parallel track running concurrently with adjudication of the issue of competition. Hearing Officer Foley requested that the proposal be made in the form of a motion. 7/9/01 Transcript, at 68.

AT&T has not yet filed such a motion. AT&T believes that the justification for proceeding expeditiously with the issue of access reform lies in economic theory which can best be articulated by an expert economist. Indeed, the economic theory supporting the notion that access reform should proceed expeditiously is related to the economic

¹ There were other procedural issues discussed as well. In particular, AT&T noted that at this stage of the proceeding, it is Verizon’s burden to prove sufficient competition in the relevant markets to justify the pricing flexibility it seeks. Contrary to certain statements made at the procedural conference, however, AT&T submits that Verizon’s opportunity to make such a showing was on its direct case. If, after AT&T and the other intervenors file their testimony explaining the appropriate standards and data to demonstrate competition, Verizon – in its surrebuttal testimony – seeks to supplement its direct case with additional, or more disaggregated, statistics regarding competition, AT&T reserves its right to respond with rebuttal testimony to what is essentially a new direct case by Verizon.

theory that provides guidance regarding the type of competition necessary to justify pricing flexibility. As a result, the testimony that AT&T will file in this phase of the case regarding the competition showing that Verizon must make to justify pricing flexibility must necessarily touch upon the issue of access reform.

AT&T believes that the Department will be able to make a better decision on the issue of when to schedule consideration of access reform when it receives the testimony that AT&T intends to file on August 24. Accordingly, AT&T requests leave to file its motion for reconsideration and clarification of the Department's *Scheduling Order* concurrent with the filing of AT&T's testimony.

Respectfully submitted,

**AT&T COMMUNICATIONS OF
NEW ENGLAND, INC.**

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